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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WAI Y. WONG,) **JOINT CASE MANAGEMENT**
Plaintiff,) **STATEMENT**
vs.)
RASH, CURTIS & ASSOCIATES,)
Defendant.)

The parties to the above-entitled action jointly submit this JOINT CASE MANAGEMENT STATEMENT & PROPOSED ORDER pursuant to the Standing Order for All Judges of the Northern District of California and Civil Local Rule 16-9.

1 1. Jurisdiction & Service

2 Plaintiff brings this action for damages pursuant to the Fair Debt Collection
3 Practices Act (“FDCPA”) under 15 U.S.C. §1692 *et seq.* and the Rosenthal Fair Debt
4 Collection Practices Act (“RFDCPA”) pursuant to Cal. Civ. Code §1788 *et seq.*
5 Plaintiff contends that subject matter jurisdiction is conferred upon this Court by 28
6 U.S.C. §§1331 and 1337, as the action arises under the laws of the United States. Plaintiff
7 also contends that supplemental jurisdiction exists for the state law claim pursuant to 28
8 U.S.C. §1337, because it arises out of the common nucleus of operative facts of
9 Plaintiff’s federal question claims.

10 Defendant does not contest this court’s original subject matter jurisdiction
11 pursuant to 28 U.S.C. § 1331 (federal question). However, should Plaintiff’s federal
12 claims be dismissed or rendered moot, Defendant does not consent to this court’s exercise
13 of supplemental jurisdiction over any remaining state law claims.

14 All parties have been served and are represented by counsel.

15
16 2. Facts

17 Several years ago Plaintiff received a series of medial services from San Mateo
18 Medical Center (“SMMC”). Due to financial hardship Plaintiff was not able to make full
19 payment to SMMC. Plaintiff’s debts to SMMC were referred to Defendant for
20 collection. As part of its collection activity, Defendant caused to be sent to Plaintiff a
21 series of text messages and correspondences, some of which were expressly requested by
22 Plaintiff. Plaintiff alleges that Defendant’s collection communications and
23 correspondences was improper under the FDCPA and the RFDCPA.

24 Defendant denies that its collection activity, including the communications at issue
25 here, were made in violation of the FDCPA and RFDCPA. Specifically, the text message
26 alleged in the Complaint advised Plaintiff that it was sent by Defendant, an entity which
27 Plaintiff knew to be a debt collector, and it expressly advised that it was sent in an
28 attempt to collect a debt. Furthermore, the itemized statements alleged in the Complaint

1 were requested by Plaintiff (as evidenced in the various call recordings generated by
2 Defendant) and accurately stated the amounts owed. These statements did not indicate or
3 communicate that Defendant sought to recover any allegedly improper amounts,
4 including any amounts for attorney's fees, court costs, or other costs. Finally, the call
5 recordings also establish that Defendant did not improperly or illegally attempt to deceive
6 Plaintiff regarding Defendant's identity as alleged in the Complaint.

7

8 3. Legal Issues

9 Did Defendant properly and fully identify itself and make the required disclosures
10 under the FDCPA and the RFDCPA? Were the communications sent to Plaintiff by
11 Defendant false and/or misleading under the FDCPA and the RFDCPA? Were the
12 alleged violations unintentional and resulted notwithstanding the maintenance of
13 procedures reasonably adapted to avoid any such error? Should Defendant's liability be
14 eliminated or reduced due to the comparative fault of Plaintiff and/or other third parties?
15 Was Defendant's conduct taken in reasonable reliance upon information provided by its
16 client? Were Defendant's communications accurate and, if not, do any inaccuracies
17 constitute a material misrepresentation such that it would have affected the least
18 sophisticated consumer's ability to intelligently choose her action or response concerning
19 her debts?

20

21 4. Motions

22 There are no motions currently pending. The parties each anticipate filing
23 Motions for Summary Judgment.

24

25 5. Amendment of Pleadings

26 The parties propose a deadline of May 27, 2019 to amend the pleadings or add
27 additional parties.

1 6. Evidence Preservation

2 Counsel for both parties certify that they have reviewed the Guidelines Relating to
3 Discovery of Electronically Stored Information and discussed the same with their clients.

4

5 7. Disclosures

6 The parties will make their initial disclosures as ordered on or before April 26,
7 2019.

8 The parties do not propose any changes with regard to the form or requirement for
9 disclosures under Fed. R. Civ. P. 26(a).

10

11 8. Discovery

12 The parties have not conducted any discovery to date.

13 Defendant anticipates propounding written discovery in the form of requests for
14 admissions, interrogatories, and requests for production of documents on Plaintiff, as well
15 as deposing Plaintiff and any other persons or entities that are identified during discovery.
16 The parties do not believe this case requires any deviation from the standard discovery
17 parameters set forth in the Federal Rules of Civil Procedure.

18

19 9. Class Actions

20 N/A.

21

22 10. Related Cases

23 None.

24

25 11. Relief

26 Plaintiff is seeking statutory damages pursuant to 15 U.S.C. §1692k(a)(2)(A) of up
27 to \$1,000 and up to \$1,000 pursuant to Cal. Civ. Code § 1788.30(b). Plaintiff is seeking

1 actual damages in an amount to be determined pursuant to Cal. Civ. Code § 1788.30(a)
2 and 15 U.S.C. §1692k(a)(1). Plaintiff is seeking payment of attorney fees and costs in an
3 amount to be determined pursuant to Cal. Civ. Code § 1788.30(c) and 15 U.S.C.
4 §1692k(a)(3).

5

6 12. Settlement and ADR

7 Plaintiff has tendered a settlement demand to Defendant and is willing to engage
8 in settlement discussion. The Parties proposed to complete mediation by August 22,
9 2019.

10

11 13. Consent to Magistrate Judge For All Purposes

12 Whether all parties will consent to have a magistrate judge conduct all further
13 proceedings including trial and entry of judgment. YES NO

14

15 14. Other References

16 N/A.

17

18 15. Narrowing of Issues

19 None at this time.

20

21 16. Expedited Trial Procedure

22 No.

23

24 17. Scheduling

25 The parties propose the following deadlines (a) August 22, 2019 for completion of
26 initial ADR session; (b) July 29, 2019 for designation of experts; (c) November 5, 2019

1 for discovery cut-off; (d) January 31, 2020 for filing of dispositive motions; (d) April 22,
2 2019 for pre-trial conference; and (e) May 4, 2020 for trial.

3

4 18. Trial

5 Plaintiff has made a jury demand and the parties believe any trial could be
6 completed in 2-3 days.

7

8 19. Disclosure of Non-party Interested Entities or Persons

9 Plaintiff filed the Certification of Interested Entities or Persons on April 15, 2019.

10 Defendant filed the Certificate of Interested Entities or Persons on March 5, 2019.

11

12 20. Professional Conduct

13 Counsel for both parties have reviewed the Guidelines for Professional Conduct
14 for the Northern District of California.

15

16 21. Other

17 None.

18

19

20

21

22 s/ Taxiarchis Hatzidimitriadis

23 Dated: May 8, 2019

24 Counsel for plaintiff

25

26 Dated: May 8, 2019

27 s/ Anthony Valenti

28 Counsel for Defendant

ECF Signature Certification

Pursuant to Local Rule 5-1(i), I, Taxiarchis Hatzidimitriadis, hereby certify that the content of the document is acceptable to Anthony P. J. Valenti, counsel for Defendant, and I have obtained his authorization to affix his electronic signature to this document.

Dated: May 8, 2019 /s/ Taxiarchis Hatzidimitriadis

Counsel for Plaintiff